

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Marshall Johnson
Ken Nickolai
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Northern
States Power Company d/b/a Xcel Energy to
Increase Rates for Electric Service in the State
of Minnesota

ISSUE DATE: February 23, 2007

DOCKET NO. E-002/GR-05-1428

ORDER GRANTING CLAIM FOR
INTERVENOR COMPENSATION

PROCEDURAL HISTORY

On March 16, 2006 Energy Cents Coalition (Energy Cents) filed a request for a preliminary determination of eligibility to receive intervenor compensation in this docket. Energy Cents anticipated seeking compensation for its intervention in the above-captioned Xcel Energy (Xcel) general rate case.

On April 28, 2006, the Commission issued its Order Making Preliminary Determination of Eligibility for Intervenor Compensation. In that Order, the Commission found that Energy Cents had satisfied the requirements under Minn. Rules, Part 7831.0500 for a preliminary determination of eligibility.

In the April 28, 2006 Order, the Commission declined to make a preliminary determination on any of the discretionary factors listed under Minn. Rules, Part 7831.0500. subp. 2.¹

On September 1, 2006, the Commission issued its Findings of Fact, Conclusions of Law and Order in the Xcel general rate case. On November 2, 2006, the Commission declined to reconsider any decisions in the Order.

On December 20, 2006, Energy Cents filed its claim for intervenor compensation with the Commission.

On January 16, 2007, Xcel filed a reply to the claim.

On February 8, 2007, the Commission met to consider the matter.

¹ Among these factors are material assistance to Commission deliberations, the potential for common representation with other intervenors and unrealistic expectations for compensation.

FINDINGS AND CONCLUSIONS

I. The Governing Rules

A. Minn. Rules, Part 7831.0500, subp. 3. Effect of Preliminary Determination on Eligibility

According to this rule section, the Commission's preliminary determination on eligibility does not guarantee either a grant or a denial of a compensation award. The preliminary determination does, however, establish a presumption either for or against an eventual award. If the preliminary determination is for a grant of intervenor costs, the Commission must overcome a presumption of eligibility if it wishes to deny the final claim. If the preliminary determination is against a grant of intervenor costs, the applicant must overcome a presumption that the final claim for costs will be denied. If the Commission has declined to make a preliminary determination on the discretionary factors listed in Minn. Rules, Part 7831.0500, subp. 2, no presumption is established regarding those factors.

B. Minn. Rules Part 7831.0600. Claim for Compensation

An intervenor filing a claim for compensation award must do so within 90 days after the time for reconsideration has elapsed or the date the Commission issued its Order after reconsideration. The claim must contain an adoption or amendment of the original petition elements, a detailed description of intervenor services and costs, and a description of how the intervenor's contribution to the proceeding may have materially assisted the Commission.

C. Minn. Rules, Part 7831.0800 Award for Compensation

In order to be granted a compensation award, an intervenor must have materially assisted the Commission in its deliberations, and must have insufficient financial resources, but for the award, to afford all or part of its intervenor costs. The rule provides a list of factors, no one of which is to be dispositive, for the Commission's determination of material assistance. The section also provides a list of factors related to financial need.

II. Energy Cents' Rate Case Participation

ECC represents low and fixed income utility customers in Minnesota. ECC designs, evaluates and administers low-income bill payment and conservation assistance programs. ECC develops these programs and advocates for them to increase the ability of low-income customers to pay utility bills and to reduce utility service disconnections and collection costs.

In the Xcel rate case, Energy Cents argued that it materially assisted the Commission in the following ways:

- Energy Cents substantially contributed to the record on the issues of residential rate design, wholesale margin sharing, the financial neutrality factor, the purchased capacity equity rider, and the fuel clause rider.
- Energy Cents reached a settlement with Xcel for a \$6.00 residential customer charge; the settlement amount was more than \$1.00 less than Xcel's projected increase and was the final amount ordered by the Commission.

- Energy Cents’ testimony regarding low-income customer usage helped to clarify the need for a lower customer charge than Xcel initially recommended and clarified the record regarding the rationale for targeting high usage electric customers in Xcel’s current low-income program.
- Energy Cents participated in settlement talks on the wholesale margins issue and helped reach an agreement between the Minnesota Chamber of Commerce, the Large Industrial Group, the Small Commercial Group, the RUD-OAG, and the Company, which was accepted by the Commission.
- Energy Cents’ testimony and briefs provided expertise regarding low-income customers’ usage patterns and refuted the testimony of Company and Department witnesses who supported larger increases in the customer service charge.
- Energy Cents’ settlement with Xcel includes a commitment by Xcel to assist it with the necessary data to complete a usage study of low-income customers in their service territory which will provide the Commission with information necessary to analyze rate design impacts on low-income customers in future rate cases.
- Energy Cents’ testimony and initial brief assisted the Commission in its decision to reject Xcel’s financial neutrality factor proposal and to examine regulatory policies on conservation more broadly.
- Energy Cents’ reply brief aided the Commission’s decision to accept Xcel’s proposed class cost allocation.

III. Xcel’s Response to Petition for Intervenor Compensation

Xcel filed comments on January 16, 2007. The Company commented that Energy Cents had met the baseline procedural and financial requirements for receiving intervenor compensation. The Company further argued that Energy Cents’ testimony on financial issues should not justify receipt of intervenor compensation, as it was largely duplicative of the testimony of other parties, and the interests of low-income customers are not different from those of other customers with respect to financial issues. However, the Company indicated that Energy Cents’ positions on rate design more closely met the threshold guidelines necessary to qualify for compensation under the intervenor compensation standards.

The Company concluded by indicating that the Commission could best assess whether Energy Cents had provided it with material assistance in the rate case.

IV. Commission Action

The Commission finds that Energy Cents has satisfied the standards for an award of compensation under Minn. Rules, Part 7831.0800. Low-income customers receive special consideration in state statute because of their limited ability to pay, and their vulnerability to service disconnection. If Energy Cents had not intervened in this case, these interests would likely not have been as vigorously represented by any other parties in the rate case.

Further, Energy Cents’ arguments on rate design clearly meet the threshold guidelines necessary to qualify for compensation. In this proceeding, Energy Cents represented the unique interests of low income customers and filed rate design proposals that both reflected those interests and were not advocated by any other party. Energy Cents filed testimony explaining the effect of Xcel’s proposed rate design on low and fixed income customers, and discussed issues related to “rate shock,” the encouragement of energy conservation through rate design, and a customer’s ability to pay. Energy Cents presented its position on these issues through three rounds of testimony and post-hearing briefs.

Energy Cents' extensive experience with issues surrounding low-income customers, including the design, evaluation, and administration of low-income bill payment and conservation assistance programs, was relevant and important, and helped clarify complicated issues. Energy Cents also raised new arguments in its testimony, promoting a public purpose and understanding of Minn. Stat. § 216B, subd. 15(a), which addresses low-income programs.

Energy Cents' testimony also introduced new facts into the record, e.g. Minnesota serves only 24 percent of its income-eligible population with its low-income heating and energy assistance program (LIHEAP) grants.

The financial information submitted shows that Energy Cents would be unable to pay for services and costs associated with intervention, but for a compensation award. The costs claimed were reasonable for the benefits rendered. The Commission concurs with Energy Cents that its efforts materially assisted the Commission in its deliberations.

Energy Cents has satisfied the standards under Minn. Rules, Part 7831.0800 for an award of intervenor compensation. The Commission will grant the intervenor its entire request of \$8,312.69 in the Xcel electric rate case.

ORDER

1. The Commission grants Energy Cents' claim for intervenor compensation as presented.
2. Xcel shall pay Energy Cents its compensation claim within 30 days of the date of this Order. Within ten days of the payment of the compensation claim to Energy Cents, Xcel shall file a statement of compliance with the Commission.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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